

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY DEWAYNE LEE TURNER,

No. 2:22-cv-0002 KJN P

Plaintiff,

ORDER

v.

MICHAEL ULLERY, et al.,  
Defendants.

Plaintiff is a state prisoner, proceeding pro se. On July 11, 2022, plaintiff filed a “Notice of Submission of Documents” along with a summons, one USM-285 form, and two copies of a complaint. The complaint is not identified as an amended complaint, but the USM-285 form is completed for Dr. Deepthi Surineni, who is not named as a defendant in plaintiff’s original complaint herein.

Initially, plaintiff is advised that he should not file a notice of submission of documents form unless directed to do so by the court. At this time, the court uses an e-filing process with the U.S. Marshal’s office to accomplish service of process on defendants employed with the CDCR. Therefore, no submission of documents or USM-285 form is necessary unless ordered by the court.

Rule 15(a)(1) of the Federal Rules of Civil Procedure provides that:

A party may amend its pleading once as a matter of course within:

1 (A) 21 days after serving it, or

2 (B) if the pleading is one to which a responsive pleading is required,  
3 21 days after service of a responsive pleading or 21 days after service  
of a motion under Rule 12(b), (e), or (f), whichever is earlier.

4 Id. On May 31, 2022, the three named defendants filed an answer, and more than 21 days have  
5 elapsed. Therefore, plaintiff may amend his pleading only by leave of court or by written consent  
6 of the adverse party. See Fed. R. Civ. P. 15(a)(2). Plaintiff did not file a motion to amend or a  
7 stipulation to amend the complaint signed by all parties. Thus, the filing must be stricken, and  
8 this action will proceed on the complaint filed December 23, 2021. Because the proposed  
9 complaint contains original declarations, the original will be returned to plaintiff, along with the  
10 summons and USM-285 form which are not required.

11 In addition, the proposed complaint submitted by plaintiff was signed by plaintiff on  
12 December 9, 2021. If plaintiff files a motion to amend, he must provide an amended complaint  
13 clearly marked as an amended complaint and that bears a current signature.

14 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court is directed to:

15 1. Scan and docket plaintiff's July 11, 2022 complaint as a "Proposed Amended  
16 Complaint;"

17 2. Return the summons, USM-285 form and original proposed amended complaint to  
18 plaintiff, and

19 3. Strike the July 11, 2022 proposed amended complaint.

20 Dated: July 18, 2022

21   
22 KENDALL J. NEWMAN  
23 UNITED STATES MAGISTRATE JUDGE

24 /turn0002.10c

25  
26  
27  
28